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Attorneys For Dresdner Kleinwort Group Holdings LLC

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: Chapter 11 Case No.

LEHMAN BROTHERS HOLDINGS INC., et al., 08-13555 (JMP)

Debtors. (Jointly Administered)

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**SUPPLEMENTAL OBJECTION OF  
DRESDNER KLEINWORT GROUP HOLDINGS LLC TO  
DEBTORS' NOTICE OF ASSUMPTION AND ASSIGNMENT OF,  
AND AMOUNTS NECESSARY TO CURE DEFAULTS UNDER,  
CONTRACTS AND LEASES TO BE ASSUMED AND ASSIGNED  
TO BARCLAYS CAPITAL, INC.**

Dresdner Kleinwort Group Holdings LLC (formerly named Wasserstein Perella Group Holdings LLC) ("Dresdner"), by its undersigned counsel, hereby files its Supplemental Objection to Debtors' Notice of Assumption and Assignment of, and Amounts Necessary to Cure Defaults Under, Contracts and Leases to be Assumed and Assigned to Barclays Capital, Inc. (the "Supplemental Objection"), and respectfully states as follows:

1. Lehman Brothers Holdings Inc. ("LBHI") is a party to a certain sublease dated July 26, 2006 between LBHI, as subtenant, and Dresdner (under its former name "Wasserstein Perella Group Holdings LLC"), as sublandlord, with respect to the 12<sup>th</sup> floor of the building located at 1301 Avenue of the Americas, New York, New York 10019 (such sublease,

the “Sublease”).

2. In LBHI’s various lists of proposed real estate lease assumptions and assignments, LBGH has referred to the Sublease and to its sublandlord as “WPGH, LLC,” the initials of Dresdner’s former name.

3. LBHI commenced this Chapter 11 case on September 15, 2008 (the “Petition Date”) and various affiliates commenced cases thereafter (collectively with LBHI, the “Debtors”).

4. On September 20, 2008, the Court entered an Order Under 11 U.S.C. §§ 105(a), 363, and 365 and Federal Rules of Bankruptcy Procedure 2002, 6004 and 6006 Authorizing and Approving (A) The Sale of Purchased Assets Free and Clear of Liens and Other Interests and (B) Assumption and Assignment of Executory Contracts and Unexpired Leases (the “Sale Order”) approving the sale of certain assets of the Debtors to Barclays Capital Inc. (“Barclays”). The Sale Order provides that counterparties to Closing Date Contracts (including certain unexpired leases and subleases, as defined in the Sale Order) shall have until October 3, 2008 (the “Objection Deadline”) to file an objection to the Cure Amounts (as defined in the Sale Order). Pursuant to Notice of Revised Exhibit A to Notice of Revisions to Schedules of Certain Contracts and Leases Assumed and Assigned to Purchaser, dated October 2, 2008, the Objection Deadline was extended with respect to Dresdner to October 13, 2008.

5. On September 19, 2008, Dresdner filed its Limited Objection and Reservation of Rights to Debtors’ Motion to Approve the Sale of Purchased Assets and Assumption and Assignment of Contracts Relating to the Purchased Assets (the “Original Objection”). In the Original Objection, Dresdner objected to the cure amount listed for Dresdner of \$170,415.04, to the extent that such amount was intended to limit Dresdner’s right to payment

from Barclays for amounts that had accrued prior to the assignment, but were not yet due and payable. The Original Objection attached a provision of the Sublease as an example of such accruing but not yet due charges, the amounts of which were not capable of being determined until a future date.

6. Since Dresdner's filing of the Original Objection, Barclays has filed revised notices of cure amounts which, as to Dresdner, currently reflect a reduction of the cure amount to \$819.99.

7. Dresdner hereby renews its Original Objection, and seeks clarification in the form of an order, the sum and substance of which would provide that Dresdner's agreeing with Barclays on a cure amount will not constitute any waiver of Dresdner's right to receive and be paid amounts accrued and accruing both before and after the assignment of the Sublease, but which were not yet due and owing as of the date of assignment, and to have Barclays otherwise satisfy all accrued and accruing obligations.

8. As explained in the Original Objection, the Sublease contains various provisions requiring the subtenant to pay amounts that relate to prior periods, including so-called "true-ups" for increases in operating expenses during a prior calendar year. In addition, similar payment obligations exist with respect to prior time periods and events including, without limitation, various obligations to reimburse the sublandlord for attorneys' fees and indemnification obligations.<sup>1</sup>

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<sup>1</sup>The obligation to reimburse a lessor for legal fees in connection with the assumption or the assumption and assignment of a lease has long been recognized by the courts. See In re Westview 7<sup>th</sup> Street Drug Corp., 59 B.R. 747, 756-57 (S.D.N.Y. 1986); In re Ribs of Greenwich Village, Inc., 57 B.R. 319, 321 (Bankr. S.D.N.Y. 1986).

WHEREFORE, for the above reasons and those set forth in the Original Objection, Dresdner respectfully requests that the Court enter an Order providing that the cure amount listed for Dresdner does not and will not affect any of Dresdner's rights, or any of Barclays' obligations, with respect to amounts which, as of the date of the assumption and assignment, were not and/or currently are not, yet due and payable, or obligations which, as of the date of the assignment and assumption, were not and/or currently are not yet required to be satisfied under the Sublease including, without limitation, the true-up, indemnification and attorney-fee obligations described above and in the Original Objection.

Dated: Garden City, New York  
October 10, 2008

Respectfully submitted,

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